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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 VERNON WAYNE McNEAL,

12 Plaintiff,

13 v.

14 EVERT, et al.,

15 Defendants.  
16

No. 2:05-cv-0441-GEB-EFB P

ORDER

17 Plaintiff, a state prisoner proceeding without counsel in an action brought under 42 U.S.C.  
18 § 1983, has filed a motion for an order compelling prison officials to repair certain personal  
19 property and replace other property. ECF No. 320.


20 Plaintiff's request does not implicate the conduct of any defendant or involve the  
21 allegations in this action and thus is not a proper request for an injunction under Fed. R. Civ. P.  
22 65. Furthermore, even if properly presented as a request for an injunction, plaintiff has not  
23 satisfied the standards for such an order. He has failed to demonstrate "that he is likely to  
24 succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
25 relief, that the balance of equities tips in his favor, and that an injunction is in the public interest."  
26 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter v. Natural Res. Def.*  
27 *Council, Inc.*, 555 U.S. 7 (2008)); *see also Alliance for Wild Rockies v. Cottrell*, 632 F.3d 1127,  
28 1130-34 (9th Cir. 2010).

1 Nor does plaintiff seek an order that is necessary to allow him to effectively litigate this  
2 action (such as an order compelling officials to provide him with legal materials or law library  
3 access). Rather, plaintiff seeks an order compelling non-parties to repair and/or replace personal  
4 items of property (headphones, television, hot pot, shoes, antenna, etc.). He alleges that, by  
5 marring or withholding his property, officials are “retaliating against plaintiff for his lawsuit in  
6 the courts.” ECF No. 321 at 3.

7 If plaintiff believes that other, non-party officials are retaliating against him for his  
8 lawsuit, his remedy is to challenge the retaliatory conduct through the administrative appeals  
9 system at his institution of incarceration and, if appropriate, initiate a separate lawsuit against the  
10 individuals whom plaintiff believes have retaliated against him.

11 Accordingly, plaintiff’s December 12, 2017 motion for a court order (ECF No. 320) is  
12 hereby DENIED.

13 DATED: January 9, 2018.

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EDMUND F. BRENNAN  
15 UNITED STATES MAGISTRATE JUDGE  
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